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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,431	09/02/2003	Andrea C. Nasstrom	0001263/2232USU	1893
7590	05/19/2004			EXAMINER MILLER, BENA B
Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CO 06901-2682			ART UNIT 3712	PAPER NUMBER

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/653,431	NASSTROM ET AL.
Examiner	Art Unit	
Bena Miller	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the light must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the light as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8, 13, 15-19, 21, 22, 28-36, 38, 39, 47 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Jennings et al.

Regarding claims 1, 2, 16, 31 and 32, Jennings et al teaches in the figures a toy garment comprising a sound generating member (20) and an article of dress (fig.1), an integrated circuit chip, an amplifier and power supply in col. 2, par. 4-8).

Regarding claims 3, 17, and 33, Jennings further teaches a hat.

Regarding claims 4, and 34, the examiner takes the position that the sound-generating member is removable from the article.

Regarding claims 5, 19 and 36, Jennings further teaches a voice (col. 2, par. 5).

Regarding claims 7, 8, 21, 22, 38 and 39, Jennings further teaches a second actuator switch and a first actuator switch (col. 2, par. 9- col. 3, line 9).

Regarding claims 13, 28, 47, Jennings further teaches a rigid material (col. 2, par.2).

Regarding claims 15, 29 and 48, Jennings further teaches a light (col. 3, par. 6).

Regarding claims 30, Jennings further teaches miniaturized article and sound generating member (fig.1).

Claims 1, 3-6,15, 31,33-37 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Bart et al.

Regarding claims 1 and 31, Bart teaches in the figures a toy garment comprising a sound generating member (fig.3) and an article of dress (fig.5).

Regarding claims 3, and 33, Bart further teaches a jewelry (The examiner takes the position that the wristband of Bart meets the broadest reasonable interpretation of jewelry).

Regarding claims 4 and 34, the examiner takes the position that the sound-generating member is removable from the article.

Regarding claims 5, 6, 36 and 37, Barton further teaches prerecorded articulation prerecorded sound (col. 3, lines 60-64).

Regarding claims 15, and 48, Barton further teaches a light (col. 2, par. 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9-12, 23-27 and 40-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings et al.

Jennings teaches in the figures most of the elements of the claimed invention. However, Jennings fails to teach elements of the claims noted above. It would have been considered a mere design choice to incorporate the elements of the claims noted above to the device of Jennings for the purpose of allowing the device to produce sound in an interval of time.

Claims 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings in view of Barton.

Jennings teaches most of the elements of the claimed invention, except for prerecorded sounds. Barton teaches a toy band having prerecorded sounds (col. 3, lines 60-64). It would have been obvious to one having ordinary skill in the art at the

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time the invention was made to incorporated prerecord sounds as taught by Barton in the device of Jennings for the purpose of recording any person's voice.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goldberg teaches a noise-making mask. Ekstein teaches a children's toy and garment. Hyman teaches a waist-attaching hobbyhorse. Wolfe teaches a cap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bena Miller  
Examiner  
Art Unit 3712

bbm  
May 16, 2004